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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,750	01/16/2002	Wai William Wang	39524.1000	7722

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EXAMINER

PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,750

Applicant(s)

WANG ET AL.

Examiner

Gautam R. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5 and 7-8 are pending for the examination.

RCE STATUS

2. The request filed on 7/21/06 for Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application is acceptable and a RCE has been established. An action on the RCE follows.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,002,885.

Although the conflicting claims are not identical, they are not patentably distinct from each other because one of ordinary skill in the art would have realized that eliminating a step or an element and its function are not patentable if the function of the step is not desired as shown in *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). See also *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965); and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

As to claims 2-5 and 7-8, since they are also fully disclosed in the patent number 7,002,885 in claims 2-3, 5-7, 9 and 11; they are therefore considered rejected as non-statutory double patenting as set forth in the paragraphs here in above.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 8 are rejected under 35 U.S.C. § 102(e) as being anticipated by Suga et al., US. patent 6,418,102 (hereafter Suga).

As to claim 1, Suga discloses the invention as claimed, an optical power calibration method [see Figs. 1-6, especially 2 & 6] including providing data to be written, determining a writing location of the data, and performing an optical power calibration process, comprising the steps of:

Setting a second power calibration area [a plurality of test sectors] within the last possible lead-out area;

providing data to be written on the data storage area [col. 3, line 46 to col. 4, line 20];

before writing that data in the data storage area, determining a writing location of the data in the data storage area;

determining whether the determined writing condition in the data storage area is within a predetermined condition or not, and according to the determining result, selecting one of the first power calibration area and second power calibration area to perform an optical power calibration process to determine a calibrated writing power; and

controlling the access device to write the data with the calibrating writing power [col. 7, line 36 to col. 8, line 13].

5. The aforementioned claim 2, recites the following steps, inter alia, disclosed in Suga:

data storage area is divided into an inner area [fig. 6, inner ring] and an outer area [fig. 6, outer ring], and the predetermined portion is the inner area, when the writing location is located within the inner area [one of the inner sector in that track], performing the optical power calibration process in the first power calibration area, and when the writing location is located in

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the outer area, performing the optical power calibration process in the second power calibration area [col. 7, line 36 to col. 8, line 13].

6. The aforementioned claim 3, recites the following steps, inter alia, disclosed in Suga:
the carrier player controls rotation of the optical storage carrier in a constant linear velocity (CLV) manner [fig. 6B; col. 8, line 53 to col. 9, line 20].

7. The aforementioned claim 4, recites the following steps, inter alia, disclosed in Suga:
the carrier player controls rotation of the optical storage carrier in a constant angular velocity (CAV) [constant rotational speed] manner [Fig. 6A and col. 8, line 53 to col. 9, line 20].

8. The aforementioned claim 5, recites the following steps, inter alia, disclosed in Suga:
the data storage area comprises two data segments, and the carrier player controls rotation of the optical storage carrier in a constant linear velocity (CLV) manner when the access device writing data onto one data segment, and each data segment having a different linear velocity [Fig. 6A and 6B and col. 8, line 53 to col. 9, line 20 and col. 1, lines 36-63].

9. The aforementioned claim 8, recites the following steps, inter alia, disclosed in Suga:
Writing condition comprises a writing location of the data in the data storage area [fig. 3, area 33-1, 33-2 etc.], and the predetermined condition comprises a predetermined portion of the data storage area [col. 7, line 36 to col. 8, line 13].

10. Claim 7 is are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suga as applied to claims 1 above, and further in view of Ikeda et al., US. patent 6,067,284 (hereafter Ikeda).

As to claim 7, Suga discloses all of the above elements, including a multiple power calibration locations at a CLV and CAV speed, including location, which is close to outer edge. Kuroda does not specifically discloses that the location is last possible lead-out area to the extent claimed.

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However, locating PCA in the lead-in is well known as evidenced by the Orange Book standard has been known in the art for a very long time.

Also more importantly Ikeda clearly discloses:

the optical storage carrier further comprises a last possible lead-out area located close to the outer edge [fig. 17, area 238] of the optical storage carrier for storing ending information about data written on the optical storage carrier, and the second power calibration area is located within the last possible lead-out area [col. 18, lines 4-26 and Figs. 17 to 18B].

Both Suga and Ikeda are interested in improving the laser power calibration method in an optical disk device. Both show different areas for power calibration.

One of ordinary skill in the art at the time of invention would have realized that different locations on the disk require different speeds and calibrating power with respect to location will be a good feature to have in the system of Suga.

Therefore, it would have been obvious to have also used a lead-out area of power calibration in the system of Suga as taught by Ikeda because one would be motivated to calibrate the data which is location specific and thus improve accuracy of recording and hence playback in the system, especially high density recording environment of modern system.

11. Applicant's arguments with respect to claims 1-5 and 7-8 have been considered but are moot in view of the new grounds of rejection.

NOTE: All of the above arts were sent in previous actions.

Other prior art cited

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Hurst, Jr. (US. Patent 5,687,156) "calibration of laser".

Contact information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

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The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.



**GAUTAM R. PATEL
PRIMARY EXAMINER**

Gautam R. Patel
Primary Examiner
Group Art Unit 2627

August 1, 2006